

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

DAVID LOGAN,)	
)	
Plaintiff,)	
)	
v.)	
)	Civil Action No. 07-1759
MELVIN LOCKETT, <i>et al.</i> ,)	Magistrate Judge Bissoon
)	
Defendants.)	

ORDER

The complaint in this case was filed on January 2, 2008. On September 26, 2008, Plaintiff was directed to provide instructions for service of Defendant Abdullah Rahim Muhammad on or before October 24, 2008, or the claims against Defendant Muhammad would be dismissed for failure to serve him with process within 120 days (Doc. 39). In this respect, Federal Rule of Civil Procedure 4(m) provides:

If a defendant is not served within 120 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time.

Fed.R.Civ.P. 4(m). Plaintiff has not responded to the Court's order and the 120 day period set forth in Rule 4(m) has long since expired.

AND NOW, this 18th day of November, 2008,

IT IS HEREBY ORDERED that the claims against Defendant Abdullah Muhammad are DISMISSED WITHOUT PREJUDICE.

IT IS FURTHER ORDERED that the parties are allowed ten (10) days from this date to

appeal this order to a district judge pursuant to Rule 72.1.3(B) of the Local Rules for Magistrates. Failure to appeal within ten (10) days may constitute waiver of the right to appeal.

s/Cathy Bissoon
Cathy Bissoon
United States Magistrate Judge

cc:
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